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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,950	07/24/2006	Jeffrey A. Engler	P6908SUS01GP	2110
23378 7590 03/17/2009 BRADLEY ARANT BOULT CUMMINGS LLP INTELLECTUAL PROPERTY DEPARTMENT 1819 FIFTH AVENUE NORTH BIRMINGHAM, AL 35203-2104				
EXAMINER DEVI, SARVAMANGALA 7N				
ART UNIT 1645		PAPER NUMBER		
MAIL DATE 03/17/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/564,950

Applicant(s)

ENGLER ET AL.

Examiner

S. Devi, Ph.D.

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 48-51 and 53-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-16, 48-51 and 53-56 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Species Election

1) Claims 17-47, 52 and 57-68 have been canceled.

Claims 3, 11, 14 and 48 have been amended.

Claims 1-16, 48-51 and 53-56 are under prosecution.

2) This application contains claims directed to more than one species of the generic invention.

The peptide species are deemed to lack unity of invention because they are not so structurally linked as to form a single general inventive concept under PCT Rule 13.1.

(A) SEQ ID NO: 2 (claims 1-3, 5-7, 14-16, 48-51 and 53-56);

(B) SEQ ID NO: 3 (claims 1-3, 5-7, 14-16, 48-51 and 53-56);

(C) SEQ ID NO: 7 (claim 4, 8-16, 48-51 and 53-56);

(D) SEQ ID NO: 8 and SEQ ID NO: 10 (claims 1-16, 48-51 and 53-56) and

(E) SEQ ID NO: 9 and SEQ ID NO: 11 (claims 1-16, 48-51 and 53-56).

The peptide species of SEQ ID number 6 would be examined along with one of species (C) and (D), if elected.

3) This application contains claims directed to more than one species of the generic invention.

The *Francisella* strain species are deemed to lack unity of invention because they are not so antigenically linked as to form a single general inventive concept under PCT Rule 13.1.

(I) *F. tularensis* and *F. tularensis* LVS;

(II) *F. philomiragia* and

(III) *F. novicia*.

See claims 7, 13, 16 and 56. Claims 1-6, 8-12, 14, 15, 48-51 and 53-55 are generic.

4) This application contains claims directed to more than one species of the generic invention.

The negative control peptide species are deemed to lack unity of invention because they are not so structurally linked as to form a single general inventive concept under PCT Rule 13.1.

(a) SEQ ID NO: 4 and

(b) SEQ ID NO: 5.

See claim 54. Claims 48-51, 53, 55 and 56 are generic.

5) Applicant is required under 35 U.S.C 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

6) The election of species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, Applicant must indicate which of these claims are readable on the elected species.

Should Applicants traverse on the ground that the species are not patentably distinct, Applicants should submit evidence or identify such evidence now of record, showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the Examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C § 103(a) of the other invention.

7) Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. The Fax number for submission of amendments, responses and/or papers is (571) 273-8300, which receives transmissions 24 hours a day and 7 days a week.

8) Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAG or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.Mov>. Should you have questions on access to the Private PAA system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (in USA and CANADA) or 571-272-1000.

9) Any inquiry concerning this communication or earlier communications from the Examiner should be directed to S. Devi, Ph.D., whose telephone number is (571) 272-0854. A message may

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be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 7.15 a.m. to 4.15 p.m. except one day each bi-week, which would be disclosed on the Examiner's voice mail system.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Robert Mondesi, can be reached on (571) 272-0956.

/S. Devi/
Primary Examiner
AU 1645

March, 2009